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## RAILWAY REGULATION IN TEXAS

Sec. 2 of Art. X of the Texas constitution provides that "The Legislature shall pass laws to regulate freight and passenger tariffs, to correct abuses, and prevent unjust discrimination and extortion in the rates . . . , and enforce the same by adequate penalties, and to further accomplishment of these objects and purposes may provide and establish all requisite means and agencies invested with such powers as may be deemed adequate and advisable." In accordance with this provision a "strong" railway commission was provided for in 1891; and a great number of pretty strict rulings and laws characterizes Texas railway regulation.

Indeed, the constitution itself goes so far as to provide: (1) that railway and other corporations doing business in the state must maintain public offices within its bounds and keep books showing a balance sheet and stock record, open for inspection; (2) that directors must hold one annual meeting in the state, giving thirty days notice thereof; (3) that no railway shall consolidate with or control any other railway corporation owning or having under its control a parallel or competing line, nor have any officers in common with such a railway; (4) that no railway organized under the laws of Texas shall consolidate with any outside company; (5) and that "no corporation shall issue stock or bonds except for money paid, labor done or property actually received, and all fictitious increase of stock or indebtedness shall be void" (Art. XII, sec. 6).

With this strong basis, the commission is empowered to make rates and classifications for freight, and to provide passenger and express rates. Considerable elasticity is provided for by authorizing exceptional and emergency rates. The commission also has large power over train service; and, as will appear, capitalization is truly under its control. It is further directed to ascertain the original cost and cost of reconstruction of Texas railways; and is empowered to prescribe "a system of bookkeeping." In general, the commission is to see that "all laws of the state concerning railroads are enforced and obeyed."

These "strong" regulations were born of abuses and discriminations which, though heightened by misunderstanding and ignorance, were largely real. Stupendous land grants, now perhaps worth more than all the railways and their equipment, had been made, only too often to be abused and misapplied so as to become the basis for large private fortunes. All this might have been condoned, however, had the railways been able to convince the Texans that they were fairly treated. Not only was there discrimination between points and persons within the state; but above all it existed between points within the state and points outside, favoring producers in other states. Thus lumber was shipped from Omaha to Dallas, Texas, at a lower rate than from nearby Texas points. The Illinois manufacturer of wagons and plows was able to undersell Texas manufacturers for similar reasons. And the same complaint came from salt and wheat producers. Such cases as these have abounded in the West and are to be remembered when the charge is made that state commissioners seek to make interstate rates.

#### THE COMMISSION

The Railroad Commission of Texas consists of three elected members who serve for six years at a salary of \$4,000. Originally the office was appointive, Texas furnishing one of several cases in which the tendency is toward making such offices elective.

The general scope of the commission's powers and duties has just been described. Here a word may well be added con-

cerning procedure before the commission and some further details of its chief powers. Procedure before the commission is very informal, and no record of the arguments and decisions is kept. The rules governing complaints are as follows: Complaints must be in writing and contain a brief statement of the matter and be signed by the complainant. Technical pleading is not required. If, in the judgment of the commission, the complaint requires investigation, it is filed; the commission may then notify the defendant with the purpose of securing redress without trial. In case of failure, notice of trial is served and five days are allowed for an answer. In the trial, parties may appear in person or by counsel. Then the law provides that if the commission finds that there has been a violation, it shall determine if the same is wilful; and, if it is found that such is not the case, it may call upon the defendant to satisfy the damages and cost of investigation. If such satisfaction is given within the time specified, there is no prosecution. But if not, or if the violation be found wilful, action shall be taken in the name of the state, to recover the full penalty.

On the second Tuesday in each month the commission holds its hearings, which are open to the public. The docket has been published several days in advance, so one goes with some knowledge of what will be considered. One recent hearing may be taken as fairly typical of the scope and importance of the matters dealt with.

Promptly at the appointed hour the three commissioners file into their room in the capitol and confront the heterogeneous group assembled. There are cattlemen, two or three railway presidents, representatives of various Texas manufacturing concerns, one or two "smooth" looking gentlemen from outside interests, and over in one corner near the commissioners and on their right, a considerable group of railway attorneys. A few curious onlookers make up the occasional balance.

The commission is seated, the chief in the center, and the clerk mumbles and drones off the first case. Forthwith the president of a little half-built, bush-whacking road somewhere in east Texas takes a seat before the commission and is put

through a cross-examination by the lawyer who is managing his interests, with the idea of showing why his little road should be recognized as a common carrier. He wants to be able to make their roads pro-rate. Then the head of a manufactory of jail material asks that his shipments be given the same rate as structural iron; and the commission is surprised to learn that the rate on jail material is 44 cents, while structural iron of similar character moves at 18 cents. Attention is also drawn to the fact that, as a result of some local exigency of a number of years previous to the time, a rate of 32 cents is charged on rough or unfinished iron, 14 cents in excess of the rate on finished material. One railway representative suggests that the locks, etc., of jail material ought to take a higher rate and that hardware dealers might make a favorable action upon the petition an entering wedge; some of the older attorneys try to recall the occasion for the inconsistency in rates; the commission says it will consider the case, and things move on. Next the president of a prominent Texas railway finds an uncomfortable seat before the desk. He has been summoned at the commission's own initiative. When asked who owns the stock of his road he hedges, replying that several thousand shares are held in his name. But who *owns them*? Does a certain big interstate line not own them? He squirms, hems, supposes so—and the commission says, "That's all we want to know." (A few days later the papers announce that for rate-making purposes the two roads will be treated as one.) The commission takes under advisement the request of a paper manufacturer for lower rates on lime, and some discussion on the part of the railways arises over the reduction. Again, the commission is informed that interstate rates on cement are to be lowered on a certain day in the future, and is asked by a cement producer to reduce intra-state rates accordingly, whereupon it is agreed to consider an emergency order to meet the interstate rate and to go into effect the same day. Finally, a New Jersey bag manufacturer appears on the scene. He has paid his respects to the several commissioners in advance, but one feels that he is too much im-

pressed with his eastern origin to be able to make an effective appeal. He wants a commodity rate on his products from Galveston inland to enable him to compete with a New Orleans house. Assuming a bless-you-my-children air, he reasons that Texas will be benefited. But Dallas and Houston bag manufacturers are on hand and cannot see it that way. They tell of their investments and appeal to the patriotism of all Texans. To cap the climax, the New Orleans rival is on hand and casts doubt on the motives of our devoted easterner. The chief commissioner asks him why he doesn't build a plant in Texas if he wants the market. Exit.

All this and more one hears at a session of the Texas commission. Truly it has great powers in its field, and before it appear the chief producing interests of the state, while ever the railways maintain their representatives in the corner near the commissioners and on the right. One must recognize that a full and fair hearing is given, and that the railways have ample and just voice in representing their interests before the commission.

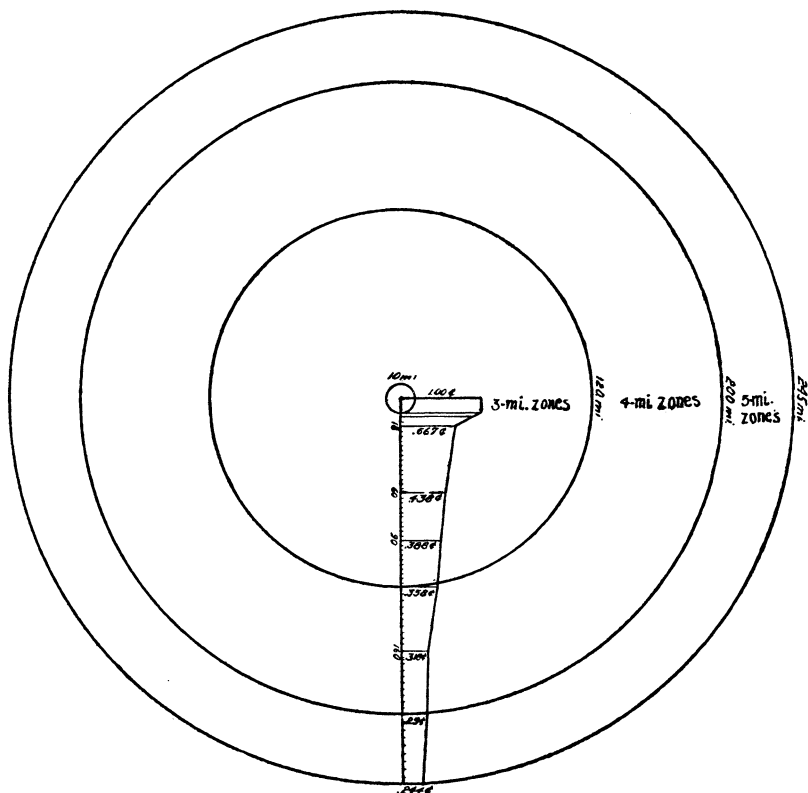
Naturally one is impressed with the great power of the commission. It is to be noted, however, that most of the Texas mileage is owned by interstate carriers which readily take cases to the federal courts; and that Texas rate policies are often modified by interstate rates. Of these limitations the commission is inclined to complain, and its chief recently advised the legislature to "kill" a bill which would have allowed a consolidation of a Texas road with an interstate carrier, largely for this reason.

#### THE RATE SYSTEM

Under its power to "fairly and justly classify and subdivide all freight and property of whatsoever character that may be transported over the railroads of this state into such general or special classes or subdivisions as may be found necessary or expedient," the commission early adopted a group of numbered and lettered classes as follows:

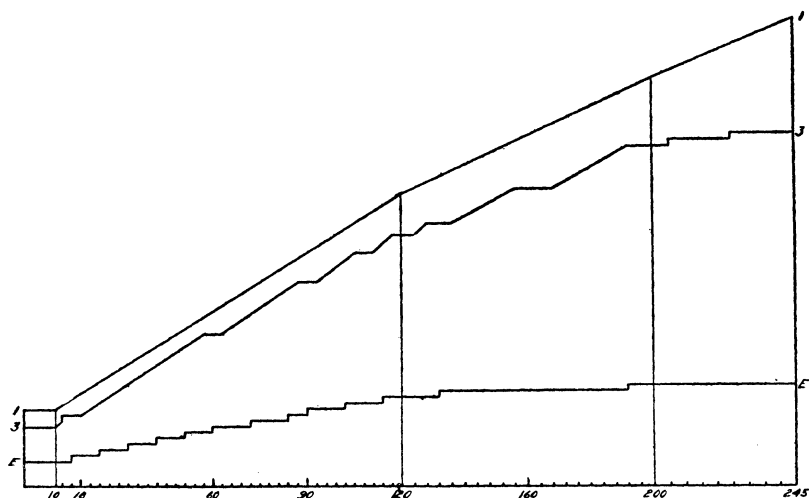
CLASSES .....	Less than Car-Loads				Car-Loads					
	1	2	3	4	5	A	B	C	D	E
RATES (Cts) .....	8.8	8.2	7.6	7.0	5.2	5.4	4.8	4.2	3.2	2.6

The rates shown are the per-ton per-mile charges for shipments moving 100 miles.



With this tenfold classification, there goes a tapering zone system of rates. Starting a shipment from any given point, there is a 10-mile zone within which the rate does not vary. Then comes a 2-mile zone. This is followed by a series of 3-mile zones or units, the charge rising steadily by 3-mile units between the 12-mile and the 120-mile points. If the shipment

goes farther, it enters a series of 4-mile zones which extend to a distance of 200 miles from the starting-point. And from the 200-mile point the charges increase by 5-mile units up to 245 miles, when a flat rate applies. Thus one can imagine the territory laid out in a series of concentric circles which constitute rate zones, these zones becoming wider as distance from the center increases. The 10-, 120-, 200-, and 245-mile points mark the changes in width. Put in another way, the charge on a shipment of 100 lbs. of third-class freight from any point for



any distance up to 10 miles in any direction is 10 cents. To any point within the zone lying between the 10-mile circle and one with a 12-mile radius the charge is 11 cents, or to a point within 12- and 15-mile circles it is 12 cents. And so on up to 245 miles, where the maximum of 60 cents (third class) is made. All third-class shipments to points between 240 and 245 miles distant take this rate, and there is no increase beyond that distance. The diagram on p. 442 illustrates the system and shows how the rate per ton mile decreases with distance.

The "tapering" result is obtained in the following manner: as the width of the zones increases the charges necessarily increase at less frequent intervals; and in all classes but the first,



as the distance increases, it becomes more common to apply the same rate to two or more zones instead of increasing it with each new zone. In the fifth class, for example, the zones become virtually twice as wide as in the first class. The preceding diagram shows the way in which the charges taper for the first, third, and E classes.

It is evident that the lower class rates begin to taper sooner and do so with wider zones, i.e., in less close gradation.

One further modification of the rate structure remains to be noted. The state is divided into two rate areas known as "common-point territory" and "differential territory." In the former area the preceding rate system applies, while, barring certain exceptions, rates to or from points in differential territory, on shipments moving over 245 miles, are made by adding certain differentials to the maximum common-point rate. In differential territory rates increase by 10-mile zones up to 200 miles, and by 15-mile zones thereafter until the 260-mile point is reached. A flat rate applies thereafter.

The reason for this division is apparent when it is observed that common-point territory includes the eastern and more densely populated area, while the western part, the northern portion of the "Panhandle," and the southern extremity of the state lie in differential territory. Higher rates are thus provided for in the light-traffic differential territory. From time to time the common-point area has been extended westward.

Practically the system is built up with Houston and Galveston as the basis, the latter being the chief Texas port and the former a rival city lying fifty miles inland to the north and west. This fact suggests another consideration concerning the Texas rate system—the Galveston-Houston differential. This differential exists because of water competition between the two cities; for low water rates are made via Galveston Bay and Buffalo Bayou. Long before the commission was created, the railways established the practice of making rates by taking Houston as a basing point and adding a differential to the Houston rate to ascertain the rate to or from Galveston. This practice the commission continued. This differential varies

from 2 to 7 cents according to class. For distances under 245 miles the scheme works fairly well. A shipment out from Galveston to a point 245 miles from Houston takes the maximum common-point rate from Houston plus the differential. For greater distances, however, Galveston is injured, for the sum of from 2 to 7 cents per 100 lbs. is added to her maximum rate: from all other points in common-point territory the maximum first-class rate for distances over 245 miles is 80 cents; but for Galveston it is 87 cents. Naturally that city cannot see the reason for penalizing her merely because she has the advantage of water communication some distance inland. Several suits have been brought, and in March, 1911, the Texas Court of Civil Appeals decided in favor of Galveston and against Houston and the commission's system.

The writer has found no satisfactory explanation for this anomalous differential case. It seems not unlikely that the scheme was originated by the railways when their terminals were at Houston. This alone would favor that point. But furthermore the natural desire of the railways for the long haul would lead them to prefer ports more distant than Galveston. The export cotton trade has been the chief item concerned, and the commission appears to have continued the scheme largely in order to maintain two rival markets for cotton.

But the Texas rate system is by no means a rigid one: there are numerous exceptions and many "special authorities" and "emergency rates." Thus in several cases exceptions to the regular tariff are made (1) on account of competition between cities, as, for example, between Galveston and Houston or Beaumont and Port Arthur; (2) on account of water competition (Galveston to Port Arthur and Lavaca); and (3) on account of wagon competition. Special rates are authorized on application of railway companies—often to facilitate Texas industries and town-building, e.g., tank cars of water for industrial purposes, cotton seed, boiler tubes and wrought iron pipes, ores, raw materials for wagons, etc., building materials and material for paved streets, and shows and circuses are among the more common items.

The desire for stability and hostility to rate wars appears in the use of emergency rates—ostensibly as the chief reason, though perhaps others are really more potent. A circular of 1899 provides that whereas certain Texas railways participate in rate wars on shipments from outside points whereby the stability of rates is disturbed and discrimination practiced; therefore, in order to protect railways which do not participate in such wars, such roads will be given a greater proportion of through rates where division is made by the commission. Among other cases, in 1899 low emergency rates were made on canned goods from Galveston and Houston. In 1904, "in view of the existing rates on wire, nails, and articles taking same rates, in straight or mixed carloads, from St. Louis and other interstate points to Paris, Texas, which creates a discrimination against other points in Texas," an emergency rate of 25 cents per 100 lbs. was established between points in "common-point territory." Similarly, in 1909, rates on window glass, sashes, and doors were lowered between Texas points to meet interstate competition.

In this connection, the existence of important commodity tariffs is to be noted. Thus there is No. 1-E on cotton and cotton linters, in bales, and cotton pickings in sacks, with its special rates, numerous "exceptions," and rules concerning compression. Cotton products, grain and grain products, coal and lignite, wood and tan bark, brick, stone and sand, live stock, wool, lime, packing-house products, fruit, canned goods, salt in carloads, petroleum, sugar and molasses, and lumber are among the other products taking commodity rates. A glance at the commodity-tonnage statistics shows that probably the greater part of the tonnage of Texas railways moves on such rates.<sup>1</sup>

	Per cent
<sup>1</sup> Lumber and forest products.....	23
Coal, coke, and lignite.....	14
Cotton and cotton products.....	9
Grain.....	6
Crude petroleum.....	4
Livestock.....	4

In round numbers the lumber tonnage is 7,980,000; coal, coke, and lignite, 5,680,000; cotton, 2,112,000; and grain, 2,704,000. The statistics are from the 1909 report of the commission.

The attitude of the commission, as already suggested, is one of defending Texas producers. In this defense a notable instance is found of the way in which state commissioners affect interstate rates; for, by calling the rail part of water-rail shipments from the Atlantic seaboard "intrastate" and reducing intrastate rates, the commission can force a reduction of all-rail rates from eastern territory to the state. This follows, of course, from the fact that such rates must, under competition, be based upon the water rate. It is provided that "all freight originating in Texas and way-billed to Gulf ports, and all freight way-billed from Gulf ports to points in Texas, subject to rates, rules, and regulations of this commission, shall be considered as Texas traffic and shall be reported as interline, intrastate, or local, dependent upon its movement." Now Texas is largely dependent upon other states for manufactured products, while, on the other hand, her own chief product is cotton moving out via gulf ports in considerable quantities. Thus Texas is in a position to exert no small degree of control over interstate rates. One way of doing this is by lowering the intrastate classification of manufactures—those not produced within the state, e.g., dry goods—thus defeating the classification of interstate carriers.

This power was originally used more largely in the interest of the people of the state as consumers. There now appears to be good reason for thinking that the interests of the consumer are sometimes sacrificed by granting local protection to producers in the state.

#### CONTROL OVER CAPITALIZATION

As early as 1857 Texas passed an act to prevent stock watering, which provided that "no railroad company shall issue any share of stock in said company, except at its par value and to actual subscribers who pay, or become liable to pay, the par value thereof"; and officers and directors were made liable to stockholders for violation of the provision. The "Stock and Bond Law" passed in 1893 enacted that: "Hereafter no bonds or other indebtedness shall be increased or issued or executed

by any authority whatsoever, and secured by any lien or mortgage on any railroad or part of railroad, . . . over or above the reasonable value of said railroad property: Provided, that in case of emergency, on conclusive proof shown by the company to the Railroad Commission that public interests or the preservation of the property demand it, the said commission may permit said bonds, together with the stock in the aggregate, to be executed to an amount not more than 50 per cent over the value of said property." It is made the duty of the commission to ascertain the value of each railway in the state, "including all its franchises, appurtenances, and property." The statute sets maxima by limiting bonds to an amount 50 per cent over the value of the whole property, while in no event can the stock exceed the value of the railway property.

Several amendments have been incorporated. The commission can now authorize securities equal to the reasonable value of extensions or branches, even though the remainder of the road is overcapitalized (1901); and provision is also made for additional issues of securities for the purchase of necessary rolling stock (1907).

The rules and regulations which control the commission in the issuance and registration of stocks and bonds are as follows:

1. *Authority to issue bonds.*—The application must be signed by the railway's president—or vice-president, if authorized—and must contain the following facts, certified by the secretary under the corporate seal: charter; list of subscribers, number of shares each takes, and amount of cash, labor, or property paid; copies of the notice of the authorizing meeting sent to stockholders, resolution adopted at that meeting, and resolution of the directors authorizing the application; maps of alignment, profile, and station and terminal grounds and town property; contracts with construction companies; schedule of rolling stock; and plans, specifications, and detailed estimates of values for new construction, containing a summary of items, quantities, and prices. The commission then makes investigation into

the "reasonableness of the company's valuation of its property and franchises which are offered as security." If satisfied, an order is issued authorizing bonds to an amount which, together with the stock, will not exceed that valuation. These become a mortgage only when registered with the Secretary of State with the commission's approval.

2. *Approval and authority to register.*—To secure registry there must be an application properly signed under oath, setting forth the following information: amount of capital stock issued or outstanding, amount of bonds outstanding, miles of completed road upon which bonds are to be a mortgage, detailed estimate of the value of this mileage, all deeds of land and contracts for construction made since application for authority. The commission's engineer then examines to see if the road is duly constructed, and to determine its value. "This commission will not approve and authorize the registration of stocks and bonds except upon and to the value of actually completed railroad and its proportional share of equipment."

3. *Registration of statements of stock.*—In the case of stock, application for approval and certification to the Secretary of State must be signed and attested by the proper officers; contain a statement signed by the presiding officer of the meeting of the board which directed the issue; and the following information: numbers of the certificates, names of subscribers receiving each certificate, number of shares, and amount of stock represented by each certificate, and the amount of money, labor, or property paid for each share.

One other feature of the stock and bond law remains for comment—one which has aroused much interest during the last few months. This is the section that deals with the effect of judicial or other sale. The act prescribes that all sales which would have the effect of discharging the property, when in the hands of the purchasers, from liability for claims for damages, unsecured debts, or junior mortgages, should also have the effect of annulling all claims of stockholders; and such sales should make it unlawful for the purchasers to operate the road

(Rev. Stat. of 1895, sec. 4584*d*). This furnishes strong protection to all junior lienors and unsecured creditors. In August, 1910, the Governor called a special session of the legislature largely to deal with the conditions upon which the purchaser of a railroad may organize a new corporation and issue stocks and bonds, the case of the International and Great Northern—then in the hands of the receiver—being in mind. Accordingly, a bill was passed which provided that the purchasers of any railway property under executive sale shall take title only upon condition that they file with the Secretary of State a written agreement to pay all unsecured debts and to subject the property to a lien for that purpose. Thus the old provision is reinforced and made more definite. The obvious end is to prevent a common evil accompanying the reorganization of corporations.

It is to be remembered that the stock and bond law, while pretty strict, makes provisions for issues 50 per cent in excess of valuation and allows exceptions calculated to further extensions and to provide for adequate equipment.

The legislation regulating stocks and bonds no doubt had some protection for the investor as one object, but the chief object appears to have been effective rate regulation and this still holds true. The tendency of the courts to give weight to capitalization in deciding upon the reasonableness of rates makes the logic of the object clear enough: if rates are to be kept at a reasonable level, the dividends paid upon watered stock cannot be allowed to figure as expenses, and to prevent this, stock watering must either be prevented or be known and allowed for.

In applying the law, the commission was virtually powerless in the case of capitalization made before its passage; but that body has so well enforced its provisions in the case of new roads that the average amount of securities per mile has steadily declined. Of course, too, the issuance of further securities by the overcapitalized lines was checked. In the course of sixteen years the average per mile has been reduced by the sum of over \$10,000.

Year Ending June 30	Miles of R.R. against Which Stocks and Bonds Are Outstanding	Total Stocks and Bonds Outstanding per Mile	Bonds Outstanding per Mile
1894 .....	9,138	40,873	25,771
1900 .....	9,750	37,365	23,478
1901 .....	9,894	36,504	23,243
1902 .....	10,616	34,170	21,781
1903 .....	10,988	33,558	21,543
1904 .....	11,494	32,400	21,191
1905 .....	11,662	32,020*	21,035*
1906 .....	12,056	31,534*	20,720*
1907 .....	12,577	30,845*	20,385*
1908 .....	12,830	30,893*	20,686*
1909 .....	13,110	30,598*	20,584*

\* The amounts after 1904 do not include over \$17,000,000 "certificates of indebtedness," issued on the Gulf, Colorado, and Santa Fe, and which are not authorized by the commission.

At the time of the passage of the stock and bond law there can be little doubt that Texas railways were overcapitalized. In 1894 the total outstanding stocks and bonds amounted to nearly \$41,000 per mile of line. At that time there were relatively few highly valuable terminals, nor was the permanent improvement item a large one. Traffic was relatively sparse. And prices were nearing their lowest ebb. Not unnaturally, the commission reached a valuation far below the above amount, though they may have gone too far. Thus, in 1895, the average value of 8,860 miles was given as only \$15,844 per mile. The most immediately important point to be made, however, is that their valuations were made at a time when values in general and values of Texas railways in particular, were very low, and consequently should have been revised later to correspond to altered conditions. Has this been done? Not in so far as the original valuations are concerned. The commission in its 1908 report states that "few of the valuations which were made by the commission during 1894 and 1895, when practically all of the railroads then in the state were appraised, have been revised" (p. 33). Since then, prices have risen, greatly increasing the cost of materials, construction, etc. Traffic has grown denser and has made better construction and more facilities necessary: this means better track and roadbed, more costly terminal facilities, and many "permanent improvements." In



many cases the settling and seasoning of the property is an item giving increased value. In a word, the original valuations and any later ones made on a similar basis are now too low. This conclusion is supported by the fact that Wisconsin has estimated the cost of reproducing her railroads at \$41,811 per mile, Minnesota at \$54,201, and Washington at \$64,343, though the cheaper construction in Texas is to be remembered.

But in practice the commission's procedure has not been so thoroughly illogical as might be inferred. The original valuations applied to lines which on the whole were pretty clearly overcapitalized, and the normal increase in the value of the properties was regarded as wringing out some of the large proportion of water. On the other hand, an examination of valuations of new lines shows considerable increases. The average appraised value per mile increased from \$15,884 in 1896 to \$17,015 in 1908. This increase is practically all due to the higher value of new lines. In appraising 45 railways having 9,105 miles of line between 1894 and 1896, an average of \$15,589 was reached; whereas between 1905 and 1909, 37 roads (1,678 miles) gave an average of \$22,227 per mile.

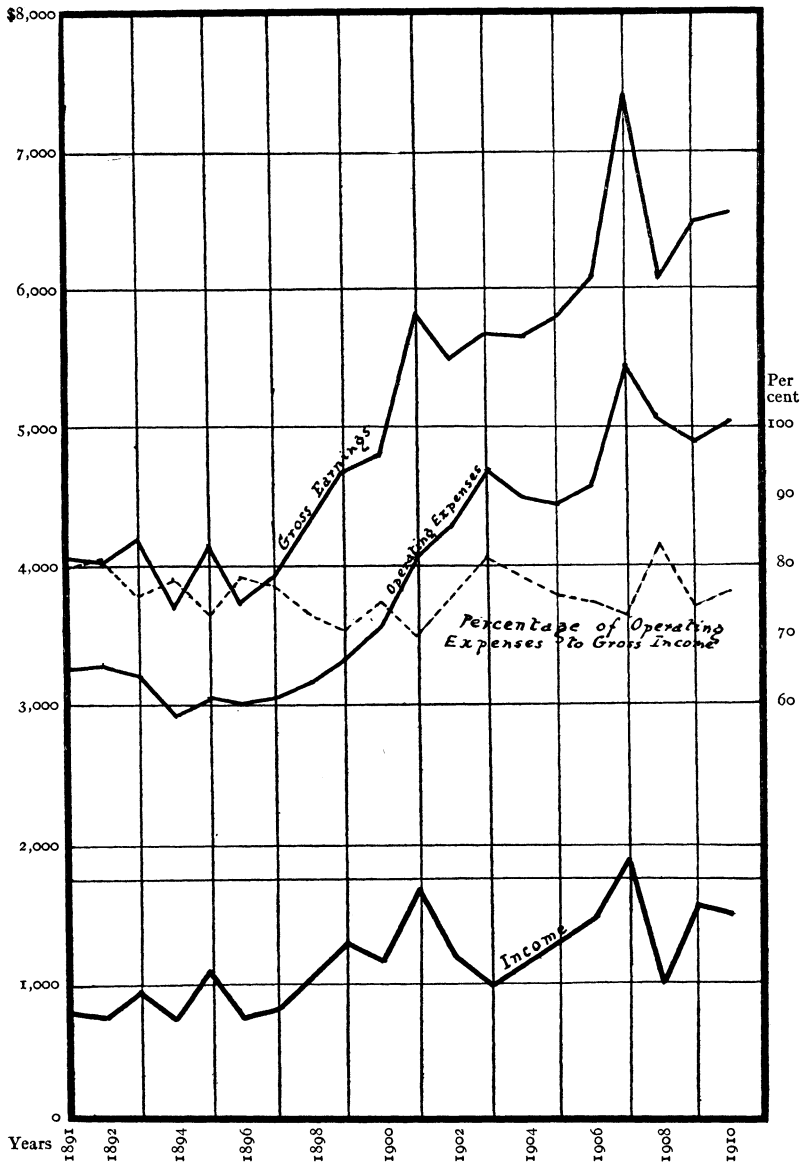
It may be said, however, that this increase is due to the growth of terminal facilities and represents no increased allowance for road and equipment. This is partly true. But taking five typical cases in which no expensive terminals, rock excavation, etc., are included, it appears that 240 miles were valued at an average of about \$14,000 in 1905; eight lines having 684 miles of similar construction showed an average of over \$15,500 in 1907; while in 1909, the average for four lines having 90 miles—the entire valuation for the year—was \$19,571.

Persistent attempts have been made to amend the law, providing for revaluation upon petition and making the value for capitalization purposes the commission's valuation (cost of production or reproduction) plus the Intangible Tax Board's valuation (franchise, etc.). It is the writer's opinion that the people of Texas are beginning to understand that under their

stock and bond law too narrow a basis for capitalization has been provided and that the development of Texas railways has been somewhat retarded by its operation. The writer cannot escape the feeling that for the average investor who can hardly know all the details of a company's affairs it is something to know that his securities have property back of them to their par value, and to know that, as a junior lienor, he need not dread a compulsory reorganization in which his claims may be wiped out. But the criticism is that "property" includes certain intangible items, and that it is easy to go too far in protecting second mortgages and encroach upon the sound claims of the first mortgages; and Texans are beginning to realize the justice of this criticism.

#### CONCLUSION

As to the result of Texas railway regulation, from the investor's point of view, one must speak guardedly; for, as an industrially new state and one liable to bad years, it is impossible to attribute ups and downs to political arrangements. The state leads all others in total single-track mileage; but shows a low mileage per unit of population and per unit of area, and there is a great demand for more railways by many Texas towns. Earnings are absolutely and relatively low. Of course they are lower than in other sections, because traffic density is lower in the Southwest than in any other region of the United States. The movement of earnings is shown in the diagram on p. 454. It appears that net earnings have risen somewhat more slowly than the average for the United States; and it is notable that they show wider fluctuations. The average revenue per ton per mile, roughly speaking, runs between 0.95 and 1.05 cents. As to capitalization, dividends, etc., there is a high percentage of bonds, and an unusual proportion of income bonds. Interstate Commerce Commission Group IX (Texas and Louisiana) shows a larger amount of that form of security than any other section. This is probably due, in part, to the Texas stock and bond law. The net income from operation in 1909 made an average return



OPERATING CURVES OF TEXAS RAILROADS

Showing Gross Earnings, Operating Expenses, and Income per Mile of Road

of 5.4 per cent on stocks and bonds, 10.5 per cent on the commission's valuation, and 6.8 per cent on the assessed valuation.<sup>2</sup> There has undoubtedly been considerable hasty or temporarily unprofitable construction.

From the point of view of the public, the results are, on the whole, good. Discrimination has been largely removed, population distributed, and undue concentration of power in a few urban centers checked. The commission's activity in regulating train service has also been salutary. The chief criticisms lie in a recent tendency to pay too exclusive attention to the immediate interests of producers, rather than consumers, and in a desire to maintain control over the situation by preventing economically desirable consolidations. Whether based on a reasonable understanding of the situation or not, it is a fact that there is also a belief on the part of capitalists that the terms of capitalization are too restrictive, with the result that of late years construction has not been so rapid as in several other western states.

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<sup>2</sup>For certain individual lines the percentages are, respectively:

C. R. I., and Gulf.....	10.0	10.0	12.0
Gulf, Col., and S. F.....	5.8	12	7.0
Mo., Kan., and Texas.....	5.4	12.6	6.4
San Antonio and Aransas Pass.....	5.9	12.2	6.7